

RECEIVED
CENTRAL FAX CENTER

MAY 07 2007

Docket No.: BOLTON 1042

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office at 571.273.8300 on the date shown below.

By: Severine Puer Date: 5/7/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

Applic. No. : 10/784,462 Conf. No. 8228
Applicant : Humberto Berra et al.
Filed : February 23, 2004
Title : Stent Graft
Group Art Unit : 3731
Examiner : Brian E. Pellegrino

Docket No. : Bolton 1042
Customer No. : 27,316

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

MOTION TO FILE AMENDED BRIEF

Sir:

On December 18, 2006, Applicants filed a Brief in support of their appeal from the USPTO's July 17, 2006 final rejection of the instant application. The Board of Patent Appeals and Interferences issued a Notification of Non-Compliant Appeal Brief on April 6, 2007. In the Notification of Non-Compliant Appeal Brief, Applicants were given leave to amend only those

RECEIVED
CENTRAL FAX CENTER

MAY 07 2007

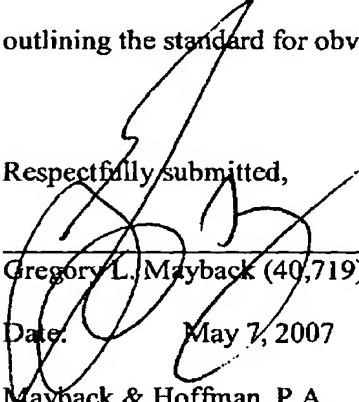
portions of the original Appeal Brief objected to by the Board of Patent Appeals and Interferences. Namely, Applicant's were instructed to specifically point to areas within the specification of the instant application that provide support for each element of the claims. Accordingly, Applicants timely filed an Amended Appeal Brief on May 4, 2007.

On pages 45-47 of Applicant's original Appeal Brief, Applicants cited case law that supports the arguments made within the Brief. However, between December 18, 2006 (the day that that the Applicants submitted the original Appeal Brief) and the filing of the Amended Appeal Brief, the United States Supreme Court issued their opinion on the case of KSR INTERNATIONAL CO. v. TELEFLEX INC. ET AL. Applicants submit that this decision has an effect on the test for obviousness under 35 U.S.C. § 103 and, as a result, on the relevance of the cases cited by the Applicants in their original Appeal Brief.

Regardless of the standard for obviousness set forth by the U.S. Supreme Court or by the USPTO, Applicants submit that the arguments set forth in the Appeal Brief and Amended Appeal Brief overcome any possible obviousness rejections under 35 U.S.C. § 103. However, in an effort to present only the most relevant case law to the USPTO, Applicants hereby request permission to amend the December 18, 2006 Appeal Brief to include case law relevant to the KSR INTERNATIONAL CO. v. TELEFLEX INC. ET AL. opinion.

Accordingly, Applicants hereby request 14 days in which to prepare and revise the section outlining the standard for obviousness or pps. 45-47 of the Amended Brief on Appeal.

Respectfully submitted,



Gregory L. Mayback (40,719)

Date: May 7, 2007

Mayback & Hoffman, P.A.
5722 S. Flamingo Road #232
Fort Lauderdale, Florida 33330
Office: (954) 704-1599
Fax: (954) 704-1588